

# Order

Michigan Supreme Court  
Lansing, Michigan

September 23, 2009

Marilyn Kelly,  
Chief Justice

138842

Michael F. Cavanagh  
Elizabeth A. Weaver  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman  
Diane M. Hathaway,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 138842  
COA: 290402  
Shiawassee CC: 04-000943-FH

DAVID CARL MURAWA,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the March 4, 2009 and March 19, 2009 orders of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REVERSE that part of the March 4, 2009 Court of Appeals order imposing sanctions against defense counsel. In this case, the defendant was not advised at sentencing of his right to appointed appellate counsel, and he was later provided appointed counsel pursuant to *Halbert v Michigan*, 545 US 605; 125 S Ct 2582; 162 L Ed 2d 552 (2005). Defense counsel complied with the deadlines that this Court had previously established for counsel appointed under similar circumstances, see e.g., *People v Corn*, 477 Mich 903 (2006). Specifically, counsel filed a post-judgment motion within 6 months, consistent with MCR 6.429(B)(3). Four months after that motion was denied and within a year of his appointment, defense counsel then filed an application for leave to appeal in the Court of Appeals, consistent with his obligations under MCR 7.205. Under these circumstances, we conclude that defense counsel should not be sanctioned, and we DIRECT the Court of Appeals to issue a refund to counsel. The cases cited in the Court of Appeals March 4, 2009 order are inapposite because there was no *Halbert* issue presented in those cases. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.



d0916

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 23, 2009

*Corbin R. Davis*

Clerk